

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

DANIEL R. JOSEPH

Examiner: Joseph S. Del Sole

Serial No.: 09/829,084

Art Unit: 1722

Filed: April 9, 2001

For: METHOD AND APPARATUS FOR AUTOMATIC CONTROL OF CAGE
SIZE IN AN EXTRUDED FILM PRODUCTION LINE

PETITION TO ACCORD FILING DATE TO PETITION TO REVIVE

Dear Sir:

Applicant hereby petitions to accord a filing date to a Petition to Revive and Response for failure by the United States Patent and Trademark Office (USPTO) to receive a timely response from Applicant to the final Office Action dated April 20, 2005, pursuant to MPEP 711.03(c) II and 37 C.F.R. § 1.181.

The below-named practitioner has recently received Applicant's files from his previous attorney and, upon examination of the file, requests withdrawal of the abandonment for the following reasons:

The timeline of the documents in the file show the following:

1) 2005/11/04 This application was abandoned unintentionally through failure to receive or associate a response to the Office Action mailed April 20, 2005, and an official Notice of Abandonment was mailed on November 7, 2005.

2) 10/09/2007 A "Preliminary Amendment and Response to Office Action" (Action mailed April 20, 2005), which also requests continued examination on page 1, and an

accompanying document of the same title requesting to revive the application, were mailed via first class mail, as per the signed Certificate of Mailing statements, along with a return post card (copy only in file). (Ex. 1).

A printout of the PAIR records on May 27, 2009 (Ex. 3) shows that these documents were either not received or were misplaced and not scanned into the system. A stamped return post card cannot be located in this file.

4) 09/10/2008 A "Status Request" was mailed via first class mail, as per the signed Certificate of Mailing, requesting the status of the petition to revive filed on October 9, 2007. A "Confirmation of Address" was also mailed to correct the attorney of record's current mailing address. A stamped return post card was received. (Ex. 2).

5) No reply to this Status Request has been received (nor mailed according to PAIR) (Ex. 3).

Accordingly, Applicant respectfully requests that the filing of the documents mailed October 9, 2007 (Ex. 1) be accorded the filing date of October 9, 2007, that the application be revived, and that the RCE and response to Office Action be entered and the application resume examination.

REMARKS

A Declaration of Kenneth C. Hill in Support of this Petition is submitted herewith.

A Power of Attorney for the below signed practitioner has been filed with the USPTO and Applicant requests that it be acknowledged and granted so that prosecution of this application may go forward.

Applicant respectfully requests that the Amendment and Response, and the accompanying request to revive, mailed October 9, 2007, be accorded a filing date, reviewed and granted, and that this Petition be GRANTED.

Conclusion

This Petition is being requested under MPEP 711.03(c) and 37 C.F.R. § 1.181 for which no fee is required. However, in the event that a fee is due to further the prosecution of this Application, the Commissioner is hereby authorized to charge any required fees due, and to credit any overpayment made, in connection with the filing of this paper to Deposit Account 50-2180 of Storm LLP.

Should Examiner require any further clarification regarding this Application, Examiner is invited to telephone the undersigned at the number listed below.

Respectfully submitted,

Dated: June 12, 2009
Storm LLP
901 Main Street
Suite 7100
Dallas, Texas 75202
Telephone: (214) 347-4708
Fax: (214) 347-4799

/Mark D. Perdue/
Mark D. Perdue
Reg. No. 36,890

Received in the U.S. Patent & Trademark Office
In Re Application of DANIEL R. JOSEPH
Serial No. 09/829,084; Filed: 9 APRIL 2001

Enclosed:

1. Response to Office Action
2. Petition to Revive
3. Postcard

Client: DANIEL R. JOSEPH
Docket No. 0291MH-34638
Mailed: 9 OCTOBER 2007

cc: Daniel R. Joseph

EXHIBIT

tabler

PET-EX 1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTORNEY DOCKET NO. 0291MH-34638

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Examiner: Joseph S. Del Sole

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For: METHOD AND APPARATUS FOR AUTOMATIC CONTROL OF CAGE SIZE
IN AN EXTRUDED FILM PRODUCTION LINE

PRELIMINARY AMENDMENT AND RESPONSE TO OFFICE ACTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450


Sir:

Applicant respectfully petitions the Assistant Commissioner to revive the subject application under 37 C.F.R. 1.137(b) on the basis that the delay in responding to the Office Action mailed 5 March 2003 and in filing this petition to revive was unintentional. A copy of a response is enclosed herewith.

CERTIFICATE OF MAILING 37 C.F.R. § 1.18(a)	
I hereby certify that this paper or fee is being deposited with the United States Postal Service as First Class Mail service with sufficient postage under 37 C.F.R. § 1.18(a) on the date indicated below and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.	
Date of Deposit: 9 Oct 2007	By: [Signature]

Please charge all fees for this Petition fees to our Deposit Account No. 50-1060.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read 'K. Hill', followed by a horizontal line.

Kenneth C. Hill
Registration No. 29, 650
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Fort Worth, Texas 76109
(817) 332-2113

ATTORNEY FOR APPLICANT